

### **REMARKS**

Applicants have carefully reviewed the Final Office Action mailed on June 30, 2010. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. Claims 1-5, 8-11, 14-16 and 19-20 are pending in the application, and are rejected. Claims 1, 10 and 15 are presently amended to correct obvious errors in antecedent basis; there is no change in claim scope for any of these amendments. No new matter is added. Claims 1-5, 8-11, 14-16 and 19-20 are presented for examination.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 1-5, 8-11, 14-16 and 19-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Peters et al. in U.S. Patent No. 5,549,552 in view of Mugge et al. in U.S. Patent No. 5,478,620.

The Examiner notes in the Office Action that Peters would be available as prior art only under 35 U.S.C. §102(e).

The present application, U.S. Patent Application No. 10/764,405, and U.S. Patent No. 5,549,552, issued to Peters et al., were, at the time the invention of Application No. 10/764,405 was made, owned by Scimed Life Systems, Inc.

As such, the above statement alone is sufficient evidence to disqualify Peters from being used in a rejection under 35 U.S.C. §103(a) against the claims of the present application, U.S. Patent Application No. 10/764,405. (MPEP 706.02 (I)(2))

In the Office Action, the Examiner relies on Mugge for teaching “in addition to 3 layer pipes, pipes that can be manufactured with 5 or 7 layers, thus the 5 or 7 layer pipes having more than one intermediate layer C3L54-57.” As such, Mugge, taken alone because Peters has been disqualified from being a reference, does not teach or suggest all the limitations of claims 1-5, 8-11, 14-16 and 19-20.

Withdrawal of the obviousness rejections is respectfully requested.

**Conclusion**

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John Chen et al.

By their Attorney,

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